

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Verisign, Inc.,

Plaintiff,

v.

XYZ.com, LLC and Daniel Negari,

Defendants.

Case No. 1:14-cv-01749 CMH-MSN

**DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL AND
INCORPORATED MEMORANDUM IN SUPPORT**

Defendants XYZ.com, LLC and Daniel Negari, by and through undersigned counsel, and pursuant to Federal Rule of Civil Procedure 5.2(d) and Local Civil Rule 5, respectfully request leave to file under seal the unredacted version of Defendants' Motion to Redesignate "Attorney's Eyes Only" Documents to Public, the sealed versions of Exhibits A-L to the Declaration of Jason B. Sykes in support of that motion, and the sealed version of Exhibit M attached to the Supplemental Declaration of Jason B. Sykes in support of that motion (collectively, the "Sealed Materials").

STATEMENT OF FACTS

On May 18, 2015, this Court entered a protective order, brought jointly by Verisign and the Defendants, that permits the parties to designate certain documents and information as "Confidential" or "Attorney's Eyes Only". (ECF No. 57). Under the Protective Order, parties and third-parties may designate documents and information as "Confidential" or "Attorney's Eyes Only", and any party that files a document containing confidential information *must* file the document under seal, unless the designating party withdraws the designation or the Court rules that it is not entitled to the designation. (*Id.* at ¶¶ 13, 14.)

The Sealed Materials consist of excerpts of deposition transcripts and copies of documents produced over the course of discovery. Verisign designated these documents as “Attorney’s Eyes Only.” So, XYZ seeks leave to file them under seal as required by the Protective Order.

ARGUMENT

The Supreme Court recognizes a common law right to inspect and copy judicial records and documents. *See In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984). But this right is not absolute. *Id.* A trial court has “supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *Id.*

In the Fourth Circuit, there are three requirements for sealing court filings: (1) public notice that allows interested parties a reasonable opportunity to object, (2) consideration of less drastic alternatives to sealing the documents, and (3) a statement of specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). The requirements are met here.

The public docketing of this Motion for Leave to File Under Seal provides interested persons a reasonable opportunity to object. And, under the terms of the Protective Order, Defendants are required to file documents marked as Attorney’s Eyes Only under seal. Verisign designated Exhibits A–M as “Attorney’s Eyes Only” and the Defendants’ Motion to Redesignate “Attorney’s Eyes Only” Documents to Public embodies information contained in Exhibits A–M.

CONCLUSION

Defendants respectfully request that the Court grant Defendants leave to file the Sealed Materials under seal.

Dated: August 31, 2018.

Respectfully submitted,

/s/
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CERTIFICATE OF SERVICE

I certify that on August 31, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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